

07 Civ. 8813 (RWS)

**DECLARATION OF
JOHN A. ORZEL IN OPPOSITION TO DEFENDANT'S MOTION TO
VACATE
MARITIME ATTACHMENT**

Exhibit F

**UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
CIVIL APPEALS DOCKETING STATEMENT**

No.: 08-35337

| | | |
|---|---|--|
| TITLE IN FULL: PROSHIPLINE, INC.; EP-TEAM, INC., PLAINTIFFS- APPELLANTS v. ASPEN INFRASTRUCTURES LTD.; formerly known as Suzlon Infrastructure Ltd.; SUZLON INFRASTRUCTURE LTD. | DISTRICT: Western District of Washington at Tacoma DISTRICT COURT NUMBER: 07-cv-05660 DATE NOTICE OF APPEAL FILED: | JUDGE: Franklin D. Burgess IS THIS A CROSS-APPEAL? No. April 25, 2008 IF THIS MATTER HAS BEEN BEFORE THIS COURT PREVIOUSLY, PLEASE PROVIDE THE DOCKET NUMBER AND CITATION (IF ANY): |
| BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW: Ancillary action pursuant to Supplemental Admiralty Rule B. Writ of Garnishment vacated and monetary award for Defendants who never answered Complaint or made any counterclaim. | | |
| PRINCIPAL ISSUES PROPOSED TO BE RAISED ON APPEAL: Impropriety of vacating writ of garnishment, of ordering physical removal of bunker fuel under Supplemental Admiralty Rule E (4)(b), and of ordering payment to a party who only appeared specially and who never made an answer or a counterclaim, by ordering payment to defendants' counsel. | | |
| PLEASE IDENTIFY ANY OTHER LEGAL PROCEEDING THAT MAY HAVE A BEARING ON THIS CASE (INCLUDE PENDING DISTRICT COURT POST- JUDGMENT MOTIONS): Related ancillary actions are pending in Texas and in New York. Relayed appeal pending in Second Circuit currently. | | |
| DOES THIS APPEAL INVOLVE ANY OF THE FOLLOWING: Possibility of settlement: Unlikely Likelihood that intervening precedent will control outcome of appeal: Low Likelihood of a motion to expedite or to stay the appeal, or other procedural matters: Low (Specify): Any other information relevant to the inclusion of this case in the Mediation Program | | |
| Any resolution in this case likely would require overall resolution of dispute that is the subject of the cases in Houston, Galveston, and New York, which are ancillary or related to arbitration proceedings in Singapore. The matter is hotly contested. Possibility parties would stipulate to binding award by Appellate Commissioner in lieu | | |

of submission to judges: **Low**

| LOWER COURT INFORMATION | | | Page 2 of 2 |
|---|--|---|--|
| JURISDICTION | | DISTRICT COURT DISPOSITION | |
| FEDERAL | APPELLATE | TYPE OF JUDGMENT/ ORDER APPEALED | RELIEF |
| <input checked="" type="checkbox"/> Federal Question Diversity Other (Specify): | <input checked="" type="checkbox"/> Final Decision of District Court Interlocutory Decision Appealable As of Right Interlocutory Order Certified by District Judge (Specify): Other (Specify): | Default Judgment Dismissal/jurisdiction Dismissal/merits Summary Judgment Judgment/court Decision Judgment/jury Verdict Declaratory Judgment Judgment as a Matter of Law Other (Specify): Decided on a motion to vacate garnishment and to exonerate security | Damages: Sought \$ 6M Awarded \$ 28 K for defendants Injunctions: Preliminary Permanent Granted Denied Attorney Fees: Sought \$ Awarded \$ Pending Costs: \$ |
| CERTIFICATION OF COUNSEL | | | |
| I CERTIFY THAT: 1. Copies of Order/Judgment Appealed Form Are Attached. 2. A Current Service List or Representation Statement With Telephone and Fax Numbers Are Attached (See 9th Cir. Rule 3-2). 3. A Copy of This Civil Appeals Docketing Statement Was Served in Compliance with FRAP 25. 4. I Understand That Failure to Comply With These Filing Requirements May Result in Sanctions, Including Dismissal of This Appeal. | | | |
|  Signature | | May 1, 2008 Date | |
| COUNSEL WHO COMPLETED THIS FORM | | | |
| NAME: STEVEN V. GIBBONS | | | |
| FIRM: GIBBONS & ASSOCIATES, P.S. | | | |
| ADDRESS: 1301 FIFTH AVE SUITE 2600, SEATTLE WA 98101-2622 | | | |
| E-MAIL: SVG@GIBBONSWHYTELAW.COM | | | |
| TELEPHONE: 206 381-3340 | | | |
| FAX: 206 587-0579 | | | |

Appeal No. 08-35337
PROSHIPLINE, INC.; EP-TEAM, INC.
Plaintiffs-Appellants
v.
ASPEN INFRASTRUCTURES LTD.; SUZLON INFRASTRUCTURE LTD.
Defendants-Appellees

REPRESENTATION STATEMENT

Steven V. Gibbons,
Gibbons & Associates, P.S.
1301 Fifth Avenue, Suite 2600
Seattle, WA 98101-2622
206 381-3340 (phone)
206 381-3341 or 587-0579 (fax)
Attorneys for Plaintiffs-Appellants

Marc E. Warner, Esq.
LeGros Buchanan & Paul
701 Fifth Avenue, Suite 2500
Seattle, WA 98104-7051
206 623-4990
206 467-4828 (fax)
Attorneys for Defendants-Appellees

Robert J. Bocko, Esq.
Catharine M. Morisset, Esq.
1301 Fifth Avenue, Suite 1515
Seattle, WA 98101
206 622-3790
206 343-9529 (fax)
Attorneys for Defendants-Appellees

Certificate of Service

I hereby certify that on the 1st day of May, 2008, I caused a copy of this CIVIL APPEALS DOCKETING STATEMENT and REPRESENTATION STATEMENT to be served upon the following by U.S. Mail : Marc E. Warner, Legros Buchanan & Paul, 710

THE HONORABLE FRANKLIN D. BURGESS

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

PROSHIPLINE, INC., EP-TEAM, INC.

Plaintiffs,

v.

ASPEN INFRASTRUCTURES, LTD,
f/k/a SUZLON INFRASTRUCTURE,
LTD.;

Defendants.

MASTERS AND PURSERS OF THE
M/S MARGARETHA GREEN; ET.
AL.,

Garnishees.

IN ADMIRALTY

No. C07-5660

NOTICE OF APPEAL

Plaintiffs ProShipLine, Inc. and EP-Team, Inc. appeal from this Court's order, decision and award, per the Honorable Franklin D. Burgess, in favor of Defendants of March 28, 2008 and April 17, 2008, which are dispositive of this ancillary proceeding under Supplemental Admiralty Rule B, including the interlocutory order of December 27, 2007, per the Honorable James L. Robart, upon which the March and April rulings are based, in part.

NOTICE OF APPEAL

GIBBONS & ASSOCIATES, P.S.
1301 Fifth Avenue, Suite 2600, Seattle, WA 98101-2622
206/381-3340 Fax 206/381-3341 or 587-0579

1 Dated this 25th day of April, 2008.

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3
4 /s/ Steven V. Gibbons

5 Steven V. Gibbons, Esq., WSBA # 14028

6 Gibbons & Associates, P.S.

7 Attorneys for Plaintiffs

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10 Certificate of Service

11 I hereby certify that on the 25th day of April, 2008, I caused a copy of this NOTICE OF
12 APPEAL to be served upon the following by electronically filing the same with the Clerk of
13 Court using the CM/ECF system, which will provide notice of the same to the Honorable
14 Franklin D. Burgess and to all counsel of record herein, including Marc E. Warner, Legros
15 Buchanan & Paul, 710 Fifth Avenue, Suite 2500, Seattle, WA 98104 and Robert J. Bocko,
16 Catherine M. Morisset, Keesal, Young & Logan, 1301 Fifth Avenue, Suite 1515, Seattle, WA
17 98101.

18 /s/ Steven V. Gibbons

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NOTICE OF APPEAL

GIBBONS & ASSOCIATES, P.S.
1301 Fifth Avenue, Suite 2600, Seattle, WA 98101-2622
206/381-3340 Fax 206/381-3341 or 587-0579